

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:06-cr-134-01

v.

HONORABLE PAUL L. MALONEY

ERNEST ROBERT GRAY

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Ernest Robert Gray has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 706 and 711 of the United States Sentencing Guidelines modified the Drug Quantity Table with regard to cocaine base (crack cocaine). These modifications were made retroactive effective March 8, 2008. U.S.S.G. § 1B1.10(c).

However, the defendant was sentenced to the mandatory minimum required by statute of 120 months in custody on Counts One, Two, Three, Four, Five, Six, and Nine, to be served concurrently with one another, and 60 months custody on Count Eight to be served consecutively to all other counts. Absent an appropriate motion filed by the Government, the Court has no

authority to reduce a sentence below the mandatory minimum. Accordingly, the amendments are of no assistance to the defendant. Therefore,

IT IS HEREBY ORDERED that Defendant Ernest Robert Gray's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (Dkt. #24) is **DENIED**.

Date: August 30, 2010

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge